

REPORT - PLANNING COMMISSION MEETING
April 8, 2004

Project Name and Number: Mixed-use Development Criteria (PLN2004-00002)

Applicant: City of Fremont

Proposal: To consider a Zoning Text Amendment (ZTA) to establish criteria for mixed-use development in accordance with Program 15 of the City of Fremont's Housing Element. Program 15 states that the City is to review its existing policies for mixed-use developments and amend the requirements to encourage housing, especially affordable housing. To implement Program 15, the following changes are being proposed: (1) inclusion of mixed-use development review under a three pronged approach (i.e., Zoning Administrator, Planning Commission or City Council depending on the complexity of a proposed project) in the C-O Administrative Office District, C-N Neighborhood Commercial District, C-C Community Commercial District, C-B-D Central Business District, and C-T Thoroughfare Commercial District; (2) inclusion of principles and standards for mixed-use developments as a whole; and, (3) revisions to existing standards and criteria for mixed-use developments in respect to parking and planned districts.

Recommended Action: Recommend Zoning Text Amendment PLN2004-00002 to the City Council.

Location: City-wide

Assessor Parcel Number(s): N/A

Area: N/A

Owner: N/A

Agent of Applicant: N/A

Consultant(s): N/A

Environmental Review: A Negative Declaration has been prepared and circulated for the project.

Existing General Plan: Central Business District, Community Commercial Center, Neighborhood Commercial Center, Thoroughfare Commercial Center, and Office Commercial Center.

Existing Zoning: C-O Administrative Office District, C-N Neighborhood Commercial District, C-C Community Commercial District, C-B-D Central Business District, and C-T Thoroughfare Commercial District

Existing Land Use: N/A

Public Hearing Notice: Public hearing notification is applicable. A Display Ad and Public Hearing Notice were delivered to The Argus on March 22, 2004 to be published by March 25, 2004. Approximately 252 notices were mailed as a courtesy to interested parties on March 29, 2004.

Executive Summary: The City's existing mixed-use provisions were originally intended as an incentive for residential development in areas where housing would not otherwise be allowed. However, in the analysis of the City's Housing Element and regional housing needs, it was found that the current provisions were somewhat limiting. This resulted in little interest on behalf of developers to pursue mixed-use development projects. In response to the Housing Element Program 15, a multi-disciplined team of City staff consisting of Housing and Redevelopment, Economic Development,

Planning, and the City Attorney's Office developed the proposal described in this report. The proposed ZTA allows: (1) a three-pronged review depending on development size (i.e., Zoning Administrator Permit for small projects, Conditional Use Permits for medium projects and Planned District process for large projects); (2) consideration of mixed-use developments in three additional commercial districts; and, (3) guidelines for insuring high quality design. Additional modifications and clarifications to the Zoning Code are proposed, including a new mixed-use development definition and adjustments to parking standards to accommodate mixed-use developments.

Background and Previous Actions: The existing policies which established mixed-use development in the Community Commercial Center and Central Business District Land Use Designations were adopted as part of the 1991 General Plan approved on May 7, 1991 by the City Council. These policies required that mixed-use developments be considered under a Planned District. On September 21, 1993, ZT-93-1 was adopted by the City Council amending the Planned District regulations to bring the ordinance into conformance with the General Plan. It was the intent of these regulations to provide an incentive for residential development in areas where housing would not otherwise be allowed. Currently, a mixed-use development must provide at least 51% of the project floor area as commercial. In addition, a portion of the residential units must be developed as for affordable housing. Overall development intensity is regulated by the Commercial District's allowable Floor Area Ratio (FAR). Increases may be granted if it has been determined that there will be no impact to utilities or services. Since the inception of the mixed-use ordinance requirements in 1993, there have only been two developments proposed and subsequently approved. They are known as The Benton (by Sun America, located on the northeast corner of Civic Center Drive and Stevenson Boulevard) and The Old School Building (by Santa Clara Development, located at the northwest corner of Mission Boulevard and Cedar Street).

On May 13, 2003 the City Council adopted a new Housing Element and related portions of the Land Use Element to replace the previously adopted (May 1991) Housing Element and to update the Land Use Element for consistency with the Housing Element. A Housing Element is a planning document (part of the General Plan) that guides the City's housing efforts. The Element not only provides general goals, objectives and policies but also proposes implementation programs to meet the stated goals and objectives. The Housing Element must also address the City's allocation of housing needs prepared by the Association of Bay Area Governments (ABAG). The Land Use Element works with the Housing Element in implementing its policies by associating the policies and programs with the land use categories in the General Plan such as the commercial land use designations. The Land Use Element was amended to allow for the consideration of mixed-use developments in all commercially designated areas, except for High Volume Commercial. It called for the development of design and development standards, including residential intensity standards, for mixed use projects within the acceptable commercial districts (e.g., C-O Administrative Office District, C-N Neighborhood Commercial District, C-C Community Commercial District, C-T Thoroughfare Commercial District, and C-B-D Central Business District). The Land Use Element requires that mixed use developments foster, increase, or maintain vitality and pedestrian activity and promote Housing Element goals within these commercial districts.

A Housing Program Strategy was incorporated into the Housing Element to encourage the production and preservation of housing, especially affordable housing. Most significant to this proposed Zoning Text Amendment is Program Number 15 of the Program Strategy which states that the City is to review its existing policies for mixed-use developments and amend the requirements as deemed necessary to promote the development of housing. Under Program Number 15, the Housing Element seeks to expand the application of mixed-use development as an incentive to generate additional housing. Specifically, it requires that the Zoning Ordinance be amended to allow consideration of mixed-use developments within other commercial districts outside the Central Business District and Community Commercial Districts (such as the C-O, C-N, and C-T Districts). It concluded that housing would not preclude the area's need for commercial space but may add vitality to the area through the mixed-use developments. Program Number 15 required that other procedures such as the Conditional Use Permit process be considered for approving smaller mixed-use developments in lieu of the current Planned District process. In addition, it asked for increasing existing incentives (such as parking reductions, density bonuses, etc.) for affordable housing units in mixed use developments and the reduction of the minimum fifty-one (51%) percent commercial floor area requirement.

Existing law requires the State Department of Housing and Community Development (HCD) to evaluate the programs in the Housing Element for consistency with State law. On July 17, 2003, the HCD informed the City of Fremont that the Housing Element was found in compliance with State housing element law. HCD reiterated the need for the City to successfully implement the programs identified the Element's Housing Program Strategy.

Project Description: The proposal is a zoning text amendment to establish criteria for mixed-use development in accordance with Program 15 of the City of Fremont's Housing Element. Program 15 states that the City is to review its existing policies for mixed-use developments and amend the requirements to encourage housing, including affordable housing. To implement Program 15, the following changes are being proposed: (1) inclusion of mixed-use development review under a three pronged approach (i.e., Zoning Administrator, Planning Commission or City Council depending on the complexity of a proposed project) in the C-O (Administrative Office District), C-N (Neighborhood Commercial District), C-C (Community Commercial District), C-B-D (Central Business District), and C-T (Thoroughfare Commercial District); (2) inclusion of principles and standards for mixed-use developments as a whole; and, (3) revisions to existing standards and criteria for mixed-use developments with respect to parking and planned districts.

The intent of these changes is to encourage and promote well planned, suitable and appropriate mixed-use developments with residential and commercial components in selected commercial districts. The existing requirements for mixed-use developments somewhat limit the ability to address the current diverse needs of the residents of the City and need to be updated.

Existing ordinance requirements for mixed use developments: The Zoning Ordinance currently allows the consideration of mixed-use developments in only two commercial districts (the C-C and the C-B-D districts) under a Planned District rezoning. The present requirements for mixed use developments are:

- Minimum of fifty-one (51%) percent of the total floor area must be commercial (i.e., retail and or offices).
- The development may consist of separate commercial and residential buildings on the same parcel of land or within the same structure
- Must be located on the edge of the C-C or C-B-D districts.
- Must foster vitality and pedestrian activity within the C-C or C-B-D.
- In the C-C District with an historic overlay district, single-family residences may be associated with commercial uses within the mixed use development.
- In the C-B-D District, the mixed use development must incorporate housing for low-income households.
- The current parking requirements for a mixed-use development are based on the individual uses proposed for the development.

Exhibit "A" overview: The ordinance changes shown in Exhibit "A" are listed based on their section number of the Zoning Code in ascending order. Section 1 contains the proposed definition for mixed-use developments. Items 2 to 16 contain the proposed changes to the commercial districts to allow mixed-use development in the C-O, C-N, and C-T districts as well as the modifications to C-C and C-B-D district in keeping with the General Plan Land Use Element and Program 15 of the Housing Element. Sections 17 and 18 contain changes needed to the Parking Ordinance to accommodate mixed-use development as proposed under this ZTA. The last item, Section 19, outlines the new criteria being proposed for mixed-use developments as a whole.

Project Analysis: The proposed Zoning Text Amendment (ZTA) as shown on Exhibit "A" includes various modifications to the Zoning Code including the addition of several new sections. The fundamental goal of the proposed ZTA is to implement the changes called for by the General Plan Land Use Element and Program 15 of the Housing Element. Each of the proposed modifications is discussed below.

- Definition (Section 1): A new definition is being proposed to clarify the meaning of mixed-use development. Currently, the definition for mixed-use development was contained in Article 18.1, (P) Planned District. It stated that "mixed use developments may consist of separate commercial and residential buildings on the same parcel of land or compatible and residential use within the same structure". However, the current definition precludes the establishment of condominium development or the compilation of multiple parcels under one mixed-use development. Therefore, new wording under Section 1 is being proposed to provide for these types of developments and to move the definition to Article 1, Definitions.

- Inclusion of mixed use development in various commercial districts (Sections 2 to 16): The General Plan Land Use Element and Program 15 of the Housing Element call for the inclusion of mixed-use development in all the commercial districts except for the C-R (Regional Commercial District). Currently, only the C-C and the C-B-D districts permit the consideration of mixed-use development under a Planned District application. The Zoning Code does not have a provision for mixed-use in the C-O, C-N, and C-T districts. In addition, the C-O District does not permit residential uses. In order to implement the requirements of the Land Use Element and Program 15, the code requirements for the C-O, C-N, and C-T districts will need to be amended to include mixed-use developments as a potential use in these districts. Furthermore, the prohibition of residential uses in the C-O District will need to be modified to allow residential uses when proposed in conjunction with a mixed-use development. Changes to C-O, C-N and C-T districts also include the addition of three types of discretionary review for mixed-use development (i.e., Zoning Administrator review, Conditional Use Permit with review and approval by the Planning Commission, and Planned District with the City Council as the approving agency). Since the C-C District already requires mixed-use projects to be reviewed under a Planned District application, the amendment to the C-C District would add the Zoning Administrator Permit and Conditional Use Permit levels of review. The Central Business District Concept Plan requires any mixed-use development in the C-B-D to be reviewed under a Planned District. Therefore, no adjustments are being proposed to the C-B-D except to: (1) include language cross-referencing the Central Business District Concept Plan and the General Plan for mixed-use developments; and, (2) to delete requirements that are no longer pertinent. Further discussion of the review process is included under Section 19 below.

- Parking modifications (Sections 17 and 18): The regulations governing the number of parking spaces per use are contained in under Article 20 (Parking, Loading Areas and Regulations pertaining to Vehicle Storage in Various Zoning Districts). Currently, the number of spaces is based on the amount needed for the individual uses proposed in a mixed-use development. The proposed changes under Sections 17 and 18 reaffirm this requirement but permit a reduction to the overall parking requirement if "joint parking" is approved for the development. The minimum amount of parking required, however, is to be no less than what is required for the residential use. In addition, this ZTA is proposing changes to the joint use parking provisions so that they may be applicable to a mixed-use development. The present language is more appropriate for wholly commercial or industrial developments rather than a mixed-use development.

- Mixed use provisions (Section 19):
 - *Level of Review:* The Zoning Code currently requires all mixed-use developments to be reviewed under a Planned District application, with the City Council as the approving agency. The ZTA is proposing a three-pronged level of review depending on the size or magnitude of a proposed mixed-use development. A small development with a project size of less than one-half (1/2) acre, or with a maximum of 10 units overall and located in an existing structure, would be reviewed under a Zoning Administrator Permit. A medium-sized development (i.e., with a project size of one-half (1/2) to four (4) acres), or where there is combination of new and existing structures, would be considered under a Conditional Use Permit with the Planning Commission as the reviewing agency. If a small development or a medium-sized development includes the consideration of any use normally requiring a conditional use permit, then the Planning Commission would be the reviewing agency for the development. The City Council would be the approving agency for large developments (i.e., larger than four (4) acres) or where the development proposes all new structures, additional uses not listed under the development's commercial zoning, or where substantial modifications to the code requirements are being requested. In addition, requests for increases over the threshold FAR, or where the development site is zoned C-B-D would be approved by the City Council. A mixed-use development would be processed under a Planned District application. The Planning Commission would be responsible for reviewing these projects and make recommendations to the City Council. [See proposed section 8-22148.7(h) of Exhibit "A".]

 - *Design:* It is important to develop quality spaces and to have strong, high quality architectural design for a successful mixed-use development. However, there are currently no criteria established for the design of a mixed-used development to assure a quality development. This ZTA provides a statement of intent followed by general guidelines for the design of a mixed-use development. They cover the overall design of the development, visual interest, building and site design, pedestrian accessibility, comfort, and safety, and the

treatment of the commercial component for best visibility and marketability. The commercial component is to be located along the commercial street frontage and transition to existing areas nearby. The intent of the guidelines is to create or foster mixed-use developments that address the existing architectural character of the neighborhood or district, the continuity of building sizes, treatment of street-level and upper-level architectural detailing, roof forms, and the relationship of buildings to public spaces. [See proposed section 8-22148.7(b) and (f) of Exhibit "A".]

- *Uses:* The ZTA proposes to allow those commercial uses which are listed as either permitted or conditionally permitted within the commercial district, residential uses, and live/work units. Since Home Occupations are allowed as an accessory to a primary residential use in a residential district, Home Occupations would also be allowed for a residential use in a mixed-use development provided that it remains as an accessory to the primary residential use. Certain uses which may be either permitted or conditionally permitted in a commercial district have been identified as uses which are incompatible with residential uses within a mixed-use development. These uses are generally businesses which are adult-oriented, involve hazardous materials or generate high level of noise considered incompatible with residential, or generate traffic which is incompatible with a mixed-use development. [See proposed section 8-22148.7(a) of Exhibit "A".]
- *FAR (Floor Area Ratio):* To assure that there is sufficient commercial square footage to maintain the overall nature and intent of the commercial zoning while providing an opportunity for increased housing units, the ZTA proposes to increase the threshold FAR for mixed-use developments. In the event the FAR needs to be increased beyond the allowable for mixed-use developments, the ZTA proposes that the project provides two out of the four following elements: (1) high quality open space and other on-site amenities; (2) increased benefit to the City (such as providing additional affordable units over the amount required under the Inclusionary Housing Ordinance); (3) has a high potential to revitalize the neighborhood; or, (4) is located near transit or off-site amenities. The proposed FAR is as follows:

ZONING	CURRENT FAR	PROPOSED FAR FOR MIXED USE
C-O	0.30	0.60
C-N	0.30	0.60
C-T	0.30	0.60
C-C	0.50	1.25
C-B-D	0.50	1.25
C-B-D near BART	0.80	2.00

[See proposed section 8-22148 (c) (1) of Exhibit "A".]

- *Development Intensity:* Development intensity for commercial districts is based on the floor area ratio (FAR). To determine the amount of development which can occur for a mixed-use development, the amount of proposed commercial floor area is subtracted from the total floor area possible for the site. The remainder is then allocated for residential. The Zoning Code currently requires that the commercial floor area comprise fifty-one (51%) percent of the total floor area. Program 15 of the Housing Element recommends the reduction of the 51% requirement to increase housing where the additional units could add vitality to the commercial area. Also, the Zoning Code does not provide a clear method to calculate residential intensity for a mixed-use development. The ZTA proposes to replace this current formula with one which is more reflective of the site's commercial presence and is based on the amount of commercial street frontage of the development. A formula for calculating maximum residential intensity is also being proposed. [See proposed section 8-22148.7(c) (2) and (3) of Exhibit "A".]

To determine the amount of commercial floor area, the proposed formula is the length of the commercial street frontage(s) multiplied times a commercial factor of 30. This resulting commercial floor area is then to be distributed along the commercial street frontage. [Note: Under the design criteria, the minimum depth of the commercial area is required to be predominately fifty (50) feet.] To determine the residential intensity, the amount of commercial floor area is subtracted from the overall floor area possible for the proposed development

and divided by a residential factor of 1,000. The residential factor of 1,000 was proposed because it is the size of a typical multi-family unit. Under the ZTA, a developer would be encouraged to provide units of varying sizes especially studios, and one- and two-bedroom units.

For example: A two acre parcel has an overall allowable FAR of 0.60.

The parcel has a commercial street frontage:	229 feet
Multiplied times commercial factor:	<u>x 30</u>
Resulting minimum floor area:	6,870 square feet of commercial floor area
To determine amount of residential:	
The overall floor area allowed for the development:	52,272 square feet
Minus commercial floor area:	<u>- 6,870</u>
Remainder	45,402
Divided by residential factor:	<u>÷ 1,000</u>
Resulting residential units:	45.4 or 45 units (maximum)

- *Open Space:* The current requirements for mixed-use development are silent in regards to open space. Based on the housing type and density of a proposed development, the policy was to apply the requirements of an applicable residential district. For instance, the open space requirements of the R-G (Garden Apartment Residence) District were used where the mixed-use development contained multi-family units. This requirement is proposed as part of this ZTA, including a provision which allows for a reduction of the amount of open space if the anticipated needs of the future tenants and the quality, usefulness, and/or amenities provided within the spaces warrant a reduction.

Open space in a typical residential development is used mainly by the residents. However, in a mixed-use development, open space can serve many purposes which can bring synergy to a mixed-use development and its surrounding neighborhood. Besides serving the recreational needs of the residents, it can also enhance the development's commercial uses with areas that can be used for outdoor dining or entertainment. It can draw in passing patrons. It can also provide a pedestrian linkage between areas of the development and adjacent properties. The ZTA proposes criteria which would require a mixed-use development to provide these elements. [See proposed section 8-22148.7(b) (4) and (f) (2) (d) of Exhibit "A".]

- *Parking facility location/design:* New criteria are being proposed to regulate the location of parking for mixed-use development. Typically in a commercial development, parking is placed prominently on the site near the street frontage. If the purpose of mixed-use development is to show-case the uses on the site, in particular the commercial uses, and to bring these uses closer to the street, the parking facilities must be located in a manner where they do not dominate the site. It is proposed that parking areas should be located away from commercial street frontage and street corners. If surface parking is proposed, parking should be located either behind or to the side of a building. To minimize conflicts between pedestrians and parking areas, parking and vehicle drives should be located away from building entrances and not between a building entrance and the street. Exception to this rule would be when a direct pedestrian connection can be provided from the sidewalk to a building entrance. Location of a parking facility should not preclude access to the facility by residents and business patrons. [See proposed section 8-22148.7(e) of Exhibit "A".]
- *Signage:* The ZTA proposes to require a Planned Signage Program for mixed-use developments to assure that the signs are in keeping with the design, scale and intent of the development. Criteria are being proposed to assure compatibility in sign design and to provide guidance regarding the use of signs. Currently, the Zoning Code does not require a mixed-use development implement a signage program. [See proposed section 8-22148.7(d) of Exhibit "A".]
- *Evaluation of mixed-use development:* To assure a future development meets the intent of the mixed-use development provisions, six findings are proposed. They address appropriate integration into the community, adaptability of building and site layout, compatibility of land uses, pedestrian-orientation, usable open and public

spaces, and appropriate amount and location of parking. The purpose of these findings is to work with the criteria to provide consistent high-quality mixed-use developments. [See proposed section 8-22148.7(g) of Exhibit "A".]

Preservation of areas next to selected transportation routes: The proposed Zoning Text Amendment also addresses commercial property located adjacent to major transportation routes such as Route 84, Interstate 880, and the two major street arterials connecting Interstate 880 and 680 (Auto Mall Parkway and Mission Blvd.). This was done to preserve regional serving retail/commercial uses along high volume traffic corridors. The City of Fremont has only a few such locations (such as the Central Chevrolet site at I-880 and Thornton Ave. or the Mowry East shopping center at I-880 and Mowry Avenue) and it was felt these sites were appropriate to maintain as retail/commercial locations to help the City's retail development efforts. Mixed use development is often more closely associated with promoting neighborhood pedestrian activity and is located closer to transit stops and access than these freeway interchanges and/or high volume traffic corridors.

General Plan Conformance: The purpose of the proposed ZTA is to implement the following General Plan Goals, Objectives and Policies for mixed-use developments in the Zoning Code. Comments responding to General Plan conformity follow the General Plan statements.

- Chapter 3 Land Use:

- Policy LU 2.4 Allowed Uses (Central Business District – Citywide Commercial Land Use Policies):

- Mixed Use: A mix of residential and commercial uses may be allowed in the CBD designated area as a Planned District development. To concentrate and focus the CBD, it is expected that some areas currently designated for commercial use will be modified to permit mixed use or higher density residential use, depending on location. In the interim, before a design and development plan is prepared, a mixed use project on the periphery of the CBD may be permitted when such a project incorporates housing for low income households. Any such project must be a Planned Development. A wholly residential project shall not be permitted in the CBD designated area.

[Comment: The proposed ZTA retains the existing provision for the C-B-D zoning district to require processing of mixed-use developments under a Planned District application.]

- Policy LU 2.11 Allowed Uses (Community Commercial Center – Citywide Commercial Land Use Policies):

- Mixed Use: A mix of residential and commercial uses may be allowed in a CCC designated area; however, a wholly residential development is not allowed. Design and development plans recommended for the CCC districts should allow for mixed use development to foster vitality and pedestrian activity and promote Housing Element goals. In Historic Overlay Districts, single family residences may be associated with commercial uses in a mixed-use development.

[Comment: The proposed ZTA retains the provision for the CCC districts to consider mixed-use developments under a planned district application and includes consideration under a Zoning Administrator Permit or a Conditional Use Permit.]

- Policy LU 2.23 Allowed Uses (Neighborhood Commercial – Citywide Commercial Land Use Policies):

- Mixed Use: A mix of residential and neighborhood commercial uses may be allowed in a CN designated area; however, a wholly residential development is not allowed. Mixed use developments shall be permitted where the vitality and pedestrian activity of the commercial district is maintained.
 - Implementation 1: The zoning ordinance shall be modified where necessary to be in conformance with this policy.

[Comment: The ZTA proposes the amendment of the C-N District to allow consideration of mixed-use developments under a Zoning Administrator Permit, Conditional Use Permit and Planned District.]

- Policy LU 2.27 Allowed Uses (Thoroughfare Commercial – Citywide Commercial Land Use Policies):
 - o Mixed Use: A mix of residential and thoroughfare commercial uses may be allowed in a CT designated area; however, a wholly residential development is not allowed. Mixed use developments shall be permitted where the vitality of the commercial district is maintained.

[Comment: The ZTA proposes the amendment of the C-T District to allow consideration of mixed-use developments under a Zoning Administrator Permit, Conditional Use Permit and Planned District.]

- Policy LU 2.37 Allowed Uses (Office Commercial – Citywide Commercial Land Use Policies):
 - o Mixed Use: A mix of residential and office commercial uses may be allowed in a CO designated area; however, a wholly residential development is not allowed. Mixed use development may be permitted where the vitality of the commercial district is maintained.

[Comment: The ZTA proposes the amendment of the C-O District to allow consideration of mixed-use developments under a Zoning Administrator Permit, Conditional Use Permit and Planned District.]

- Housing Element 2001-2006 – Chapter 8 Housing Program Strategy 2001-2006:

- Implementation Program 15 Mixed Use Requirements:
 - o As discussed in the “Other Land Use Standards/Requirements” subsection of Chapter 4, the City will review its existing policies for mixed-use developments and will amend the requirements to encourage affordable housing. The review will include:
 - An analysis of the implications of the minimum 51% commercial floor space requirements on residential development in mixed-use projects as well as the affected area’s need for commercial space. The 51% requirement will be reduced where appropriate.
 - Evaluation of mixed use potential in other commercial districts in the City; including neighborhood commercial, office commercial and thoroughfare commercial districts, particularly those districts within redevelopment areas and along transit corridors.
 - Feasibility of increasing existing incentives (parking reductions, density bonuses, etc.) for affordable housing units in mixed-use developments.
 - Evaluating other procedures (e.g. Conditional Use Permits) for approving smaller mixed-use developments in lieu of Planned District procedure.
 - Development of residential standards for mixed-use projects that promote affordable housing.

[Comment: The items listed in Program 15 resulted in the changes proposed under this ZTA. New criteria are being proposed which include: (1) standards for the development, including parking reductions; (2) alternatives to planned district process for reviewing mixed-use developments; (3) consideration of mixed-use developments in other commercial districts; (4) new criteria for determining development intensity, including reduction of the minimum 51% requirement.]

Inclusionary Housing: Article 21.7 Inclusionary Housing requires that at least fifteen (15%) percent of all residential units in any new residential project of seven units or more be made available at affordable rents or affordable housing costs. Since mixed-use developments include a residential component, the residential portion will be subject to this requirement.

Study Session Meetings – City Council and Planning Commission Direction and Developer Input: A general outline of the changes proposed in this ZTA was presented to the City Council, Planning Commission, and a developer at separate meetings. Language addressing these comments has been incorporated into the proposed zoning text amendment.

- **Planning Commission Direction:** At Planning Commission Study Session of December 11, 2003, the Commission expressed interest in having flexibility built into the commercial spaces so that the spaces can easily be converted for a multiple of uses such as from a retail store to a restaurant. In addition, there was concern expressed about the quality of open space as opposed to the amount of open space provided by a mixed-use development. It was important that the open space areas added to the pedestrian orientation. Lastly, the Commission suggested that residential density be based on one thousand (1,000) square feet per unit.
- **Developer Input:** On February 26, 2004, a developer of mixed-use projects was invited to participate in a discussion on the proposed provisions of the ZTA. The following are some of the comments made by the developer pertinent to the ZTA: (1) Need to have adequate depth and height for retail spaces (i.e., 15 foot ceilings); (2) higher FAR is needed (i.e., above 1.0); (3) simplify parking needed for different uses; (3) density should be appropriate to the development (i.e., 50 to 80 units per acre with average size being 900 to 1,100 square foot units); (4) focus retail around site perimeter (i.e., streetscape frontage); (5) quality not quantity open space is needed; and, (6) pedestrian-friendly streetscape is important.

The same developer was also given an opportunity to comment on the specific language prepared for this ZTA. Overall, the developer thought that the proposed ordinance was going in the right direction and complimented the City for pursuing the changes but felt that the City should consider further increases in the proposed FAR allowances, residential densities and building heights. The developer also suggested that the City consider restricting the number of nail/hair salons so that they do not dominate a development. It was also noted that the City should not over-regulate project signage and take into consideration the perception that the requirement for below market rate housing might be a disincentive to development of mixed use projects. The developer also suggested that development intensity bonuses be considered.

In reviewing these suggestions, staff notes that there are a number of General Plan goals and other competing interests being take into consideration as part of the mixed-use proposal. Staff believes that the proposal, as drafted, strikes a balance between these goals and interests while providing the City and developers the flexibility needed to consider unique opportunities for increased development intensities and creative solutions based upon the merits of a particular project and/or site.

- **City Council Direction:** The City Council during its March 16, 2004 Study Session accepted the general concepts overall. It agreed that a higher floor area ratio (FAR) should be allowed for mixed use developments in order to stimulate development. Quality open space was highly desirable especially outdoor open space. With respect to the commercial component, the Council recommended that the standard retail depth should be predominately fifty (50) feet with built-in flexibility in the commercial spaces to allow for easy conversion from one use to another. In addition, Council agreed that signage for a mixed-use development should be reviewed under a Planned Signage Program to ensure compatibility of signage design. The Council commented that the focus should be to allow a better mix of uses in a mixed use development but not be so skewed that the residential overwhelms the commercial.

Environmental Analysis: A finding is proposed that this project will not have a significant effect on the environment. The proposed project is an amendment of existing ordinance requirements for mixed-use developments located in the City of Fremont's Zoning Ordinance to bring it into conformance with the existing General Plan (Land Use and Housing Elements). No significant vegetation, wildlife, or natural resources will be displaced, destroyed, or removed by the proposed development. Future development subject to the proposed ordinance language will be required to comply with the City codes and policies, as well as with various county and state agency regulations. Review of these future projects will be required to undergo environmental review as required by CEQA.

Response from Agencies and Organizations: No comments have been received from any agency or organization regarding this proposal.

Enclosures: Exhibit "A" (Zoning Text Amendment)
Initial Study and Draft Negative Declaration with accompanying Certificate of Fee Exemption

Exhibits: Exhibit "A" Zoning Text Amendment

Recommended Actions:

1. Hold public hearing.
2. Recommend that the City Council find the Initial Study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Recommend that the City Council approve draft Negative Declaration with accompanying Certificate of Fee Exemption and find it reflects the independent judgement of the City of Fremont.
4. Recommend that the City Council find that PLN2004-00002 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
5. Recommend that the City Council find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment PLN2004-00002 because the proposed text changes are needed to assure the development of high quality, appropriate mixed-use developments compatible with adjacent neighborhoods and to assist in the revitalization of existing commercial areas, in order to meet the needs identified by the City's Housing Element, is not feasible without the modifications to associated portions of the Fremont Municipal Code, as shown in Exhibit "A".
6. Recommend PLN2004-00002 to the City Council in conformance with Exhibit "A" (Zoning Text Amendment).

EXHIBIT "A"
PLN2004-00002
MIXED-USE DEVELOPMENTS

Note: Under PROPOSED ORDINANCE, new language proposed to be added is underlined. Language proposed to be removed is ~~struck~~.

Section 1:

Article 1 (Definitions) of Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-2162.9.7 (Mixed-use development) which reads as follows:

Sec. 8-2162.9.7. Mixed-use development.

"Mixed-use development" shall mean a development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial, residential and institutional. The uses may be located in the same building or in separate buildings. In no case shall a mixed-use development consist predominately of live/work units.

Section 2:

Section 8-2901.5(a) (Uses specifically prohibited) of Article 9 (C-O Administrative Office District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to read as follows:

(a) Residential, except as specifically provided herein under a mixed-use development^{1, 3 and 4}.

Section 3:

Section 8-2903 (Conditional uses: Planning commission as reviewing agency) of Article 9 (C-O Administrative Office District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended include a new section 8-2903 (c) which reads as follows:

(c) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

(d) ~~(e)~~ Any other use that the planning commission finds is similar in nature, function and operation to conditional uses allowed within the district.

Section 4:

Article 9 (C-O Administrative Office District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-2904(d) (Zoning administrator permitted uses) which reads as follows:

(d) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 5:

Article 9 (C-O Administrative Office District: planned district), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-2906(d) (Other required conditions) which reads as follows:

(d) Mixed-use developments^{1, 3, and 4} may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 6:

Article 10 (C-N Neighborhood Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21003 (k) (Conditional uses: Planning commission as reviewing agency) which reads as follows:

(k) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

(l) ~~(k)~~ Any other retail or service use which the planning commission finds is similar in nature, function and operation to conditional uses allowed within the district, subject to the provisions set forth in Article 25.2 of this chapter.

Section 7:

Article 10 (C-N Neighborhood Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21004(e) (Zoning administrator permitted uses) which reads as follows:

(e) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 8:

Article 10 (C-N Neighborhood Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21006(e) (Other required conditions) which reads as follows:

(e) Mixed-use developments^{1, 3, and 4}, may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.

- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 9:

Article 11 (C-C Community Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21103(bb) (Conditional uses: Planning commission as reviewing agency) which reads as follows:

(bb) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 10:

Article 11 (C-C Community Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21103.1(t) (Zoning administrator permitted uses) which reads as follows:

(t) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 11:

Section 8-21105(e) (Other required conditions) of Article 11 (C-C Community Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to read as follows:

~~(e) Mixed use projects may be permitted within areas designated on the general plan as community commercial through the use of planned district process and pursuant to the requirements set forth in Article 18.1 of this chapter.~~ Mixed-use developments^{1, 3, and 4} may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 12:

Section 8-21206(e) (Other required conditions) of Article 12 (C-B-D Central Business District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to read as follows:

~~(e) Mixed use developments shall be subject to the filing of a planned district application and the requirement set forth therein in Article 18.1 of this chapter.~~ Mixed-use developments^{1, 3, and 4} may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 13:

Article 13 (C-T Thoroughfare Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21303(s) (Conditional use: Planning commission as reviewing agency) which reads as follows:

(s) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 14:

Article 13 (C-T Thoroughfare Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21304(m) (Zoning administrator permitted uses) which reads as follows:

(m) Mixed-use developments^{1, 3, and 4}, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 15:

Article 13 (C-T Thoroughfare Commercial District), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new section 8-21306(e) (Other required conditions) which reads as follows:

(e) Mixed-use developments^{1, 3, and 4}, may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments³.

Section 16:

Section 8-21811(m) (Standards and requirements for P districts) of Article 18.1 (P Planned District: mixed use development), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to read as follows:

(m) Mixed use development^{1, 3 and 4}. Mixed use developments, subject to the provisions set forth in Article 21.3 of this chapter, may consist of ~~separate commercial and residential buildings on the same parcel of land or compatible and residential use within the same structure. one or more parcels developed as a cohesive project and design with a~~ blend of various compatible uses such as commercial, residential and institutional.

- (1) Community commercial centers (CCC): ~~Mixed-use developments combining commercial and residential land uses may be permitted, subject to the following requirements:~~
 - a. ~~Mixed use developments within the CCC district shall be processed with a planned district application, except as provided in Articles 11 and 12 for residences integral and accessory to a permitted or conditional use.~~

- b. ~~The primary land use within the mixed use development shall be retail and/or offices. Primary shall be defined as a minimum of fifty-one percent of the total floor area of the development. Wholly residential developments shall not be permitted.~~
 - c. ~~Mixed use developments should be located on the edge of the CCC district. Design and development plans should foster vitality and pedestrian activity within the CCC.~~
 - d. ~~In Historic Overlay Districts, single family residences may be associated with commercial uses within the mixed use development.~~
- (1) ~~(2)~~ Central Business District: Mixed-use developments combining commercial and residential land uses may be permitted, subject to the following requirements:
- a. Mixed use developments in the C-B-D shall be processed with a planned district application.
 - b. ~~Mixed use developments shall be located on the edge of the C-B-D. Mixed use developments shall be guided by the Central Business District Concept Plan.~~
 - c. Mixed use developments shall incorporate housing for low-income households in keeping with the requirements of the General Plan for mixed-use developments in the C-B-D.
 - d. ~~The primary land use within the mixed use development shall be retail and/or offices. Primary shall be defined as a minimum of fifty-one percent of the total floor area of the development. Wholly residential developments shall not be permitted.~~
 - e. ~~Mixed use developments should be located on the edge of the C-B-D. Design and development plans should foster vitality and pedestrian activity within the C-B-D.~~

Section 17:

Article 20 (Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new Section 8-22003(e) (Required parking spaces by type of use) which reads as follows:

- (d) Mixed-use developments^{1, 3, and 4}. The base requirement for a mixed-use development shall comply with the residential and commercial parking standards set forth in this section. The number of parking spaces may be reduced if joint parking is approved based on the requirements of this section. However, in no case shall the combined required parking for the mixed-use development provide less than the minimum required for the residential use.
- (e) ~~(d)~~ *Compact cars*. Compact car spaces may substitute for 35 percent of the required parking spaces, provided that in residential developments, the compact car allowance may be applied to open parking spaces only. All compact car spaces shall be signed and readily identified.
- (f) ~~(e)~~ Other. The zoning administrator shall determine the required parking for uses not mentioned above, based on the requirements for similar uses.

Section 18:

Article 20 (Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended Section 8-22007 (Mixed or joint use of parking spaces) which reads as follows:

- (a) Where there is a mixed-use development^{1, 3, and 4} or in the case of mixed uses occurring on a single parcel under one ownership, if said mixed uses do not constitute a shopping center as defined under Article 1, the total requirements for off-street parking shall be the sum of the requirements of the various uses computed separately as specified in this article, and ~~the off-street parking and loading spaces for one use shall not be considered as providing the required off-street parking and loading space for any other use unless the planning commission reviewing agency has authorized the joint use of parking facilities pursuant to this section.~~
- (b) The reviewing agency may authorize the joint use of parking facilities for uses or activities not located in shopping centers as defined under Article 1 if it finds the criteria listed below are met. The amount of parking spaces required shall be based on the number of criteria met by the proposed project. In no case shall the parking requirements be reduced where, based on substantial evidence, there is insufficient off-street parking to meet the needs of the neighborhood.
- (1) The normal hours of operation of such uses or activities do not substantially coincide or overlap with each other;
or,
 - (2) The development is located near available on-street parking or other public parking areas; or,
 - (3) Transit alternatives are available near the development; or,
 - (4) For mixed-use developments^{1, 3 and 4}, residential and commercial parking demand often occurs at different times of the day.
- (c) ~~(b) The planning commission may authorize the joint use of parking facilities for uses or activities not located in shopping centers as defined under Article 1 if it finds that the normal hours of operation of such uses or activities do not substantially coincide or overlap with each other. Joint use parking shall be subject to the following limitations and conditions:~~
- (1) No more than fifty percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.
 - (2) The applicant shall submit sufficient data to indicate that there is not substantial conflict in the principal operating hours of the uses proposing to make use of the joint parking facilities.
 - (3) The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the city attorney as to form and content guaranteeing that said required parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such instrument, when approved as conforming to the provisions of this section, shall be recorded by the property owner in the office of the county recorder and a copy thereof filed with the ~~community development department~~ planning division.
- (d) Reviewing agency for mixed or joint use parking:
- (1) Mixed-use developments^{1, 3, and 4}: The reviewing agency shall be in accordance with the reviewing agency specified in Article 21.3 for mixed-use developments.
 - (2) All other uses: The reviewing agency for all other joint use parking arrangements shall be the planning commission.

Section 19:

Article 21.3 (Special Provisions Applying to Miscellaneous Uses), Chapter 2 (Zoning), Title VIII (Planning and Zoning of the Fremont Municipal Code) is proposed to be amended to include a new Section 8-22148.7 (Mixed-use development) which reads as follows:

Section 8-22148.7 Mixed-use development^{1, 3, and 4}

The purpose of this section is to encourage and promote well planned, suitable and appropriate mixed use developments with residential and commercial components within the C-O, C-N, C-C, C-T and C-B-D Districts. To provide for the diverse needs of the residents of the City and to allow developers the flexibility to accomplish such goals without sacrificing the existing image and character of the surrounding neighborhood. To encourage efficient land use by facilitating compact, high-intensity development and minimizing the amount of land needed for surface parking. And, to facilitate development (e.g., land use mix, density, and design) that supports public transit where applicable. A mixed-use development should be safe, comfortable and attractive to pedestrians, patrons and residents.

(a) **Uses:** To allow a mixture of complimentary land uses that includes retail, offices, commercial services, housing, and civic uses, to create economic and social vitality and to encourage the linking of trips as well as shortening trip distance between uses and services. And to dissuade those uses deemed incompatible with residential uses. The following regulations are intended to create and maintain developments with a compatible mix of residential and commercial uses. To insure compatibility between uses within the development and surrounding area, any use requiring a zoning administrator permit or a conditional use permit shall be reviewed as part of the proposed development. A broad range of uses are allowed: (i) to promote efficient use of land; (ii) to provide options for commercial opportunities; and, (iii) to promote the development of the affordable housing.

(1) **Uses – permitted:**

- a. Uses which are permitted within the commercial zoning district except for those uses listed in this subsection as prohibited.
- b. Residential.
- c. Live/work units^{1, 3, 4}, subject to the requirements set forth in Article 21.3 of this chapter except as modified in this section.
- d. Home Occupations^{1, 3} accessory to a primary residential use. Business conducted within a residential unit where the commercial use is incidental and secondary to the primary residential use shall be subject to the requirements for Home Occupations pursuant to Article 21.3 of this chapter.

(2) **Uses - conditionally permitted.** Uses which are conditionally permitted within the commercial zoning district except for those uses listed in this subsection as prohibited.

(3) **Uses – prohibited:** Regardless of zoning designation, unless it is found that the use is compatible with the mixed-use development, the following uses shall be prohibited.

- a. Adult-oriented businesses¹.
- b. Agriculture and commercial nurseries^{1, 2}.
- c. Assisted living facilities or other medical care facilities^{2, 3}.
- d. Astrology, palmistry and similar services^{1, 2}.
- e. Commercial cleaning plant².
- f. Boat, trailer, and vehicle (including parts) sales, service, storage and garages².
- g. Camp and trailer parks².
- h. Car wash².
- i. Drive-in/drive-through restaurants².
- j. Equipment rental and sales yard².
- k. Firearm dealers and gunsmith shops^{1, 2, 3}.
- l. Fuel dealers².
- m. Hospitals².
- n. Laundry, commercial plant².
- o. Recycling center and Recyclable material collection facility^{1, 2, 3}.
- p. Reverse vending machines^{1, 2, 3}.
- q. Service station¹.
- r. Uses involving hazardous materials or generate high level of noise incompatible with residential uses

- s. Uses specifically prohibited in the zoning district the development is located in.
- t. The Zoning Administrator may deem additional uses to be prohibited based on a finding that the use is similar in nature, function and operation to the prohibited uses listed in this subsection.

(b) Design Criteria: The City has an interest in creating desirable residential areas, while protecting and promoting commercial opportunities. The criteria listed below provide guidance to property owners and developers. It also provides assurance to neighbors that the combination of residential and commercial uses within a single development will create an aesthetically pleasing environment.

(1) Overall Design: Community acceptance of mixed-use development may require that the design reflects the context of its surroundings or create its own distinct look and identity. This does not mean that it needs to copy or mirror the architectural style of the surrounding buildings but should be of comparable scale and level of design detail. Key elements to consider are: existing architectural character of the neighborhood/district; continuity of the building sizes; treatment of the street-level and upper-level architectural detailing; roof forms; rhythm of windows and doors; and, relationship of buildings to public spaces such as streets, plazas, other open space, and public parking.

- a. Design of the development should be in keeping with the commercial district where the development is located.
- b. There should be a cohesive design scheme throughout the development. However, the design of the storefront shall not be so homogeneous where it would be difficult to distinguish one use from another.
- c. The development should provide a reasonable transition between adjacent existing (or future) residential and commercial uses.
- d. Where there are multiple buildings in a mixed-use development, the structures should be of varying heights to create visual interest from the street. The ground level façade for a multi-level structure should have a distinct look from the façade of the floor levels above (e.g., using different architectural elements, such as building material or trim accent, lighting and/or paint colors.
- e. The vertical plane of the building façade shall be broken up with a high level of articulation (e.g., projecting entry or window features and/or recessed elements.

(2) Security. To encourage the use of design to minimize opportunities for crime and to increase public safety.

- a. Building entrances, parking areas, private and public open spaces, and pathways should be accentuated with appropriate features such as landscaping, pavement treatment, art and signs which draws attention to the area. Such features should be placed or designed in such a manner that the view into the area is not obscured.
- b. The proposed layout, building, and landscape design should promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site. For example, window placement, the use of front porches or stoops, use of low or see-through walls, and appropriate use of landscaping and lighting can promote natural surveillance. Sight-obscuring shrubs and walls should be avoided, except where necessary for buffering between commercial uses and lower density residential, to the extent practicable.
- c. The proposed site layout and building design should encourage activity in public spaces. For example, locating outdoor seating in areas that are visible from inside a restaurant helps to discourage crime and supports the activity of dining.
- d. The development should control access wherever possible by properly siting and designing entrances and exits (i.e., clear view from the store) and through the appropriate use of lighting, signs and/or other features.

- (3) Pedestrian-oriented: To encourage buildings to be designed to a human scale for pedestrian access, safety and comfort. To promote a design which would provide direct and safe access between the site and adjacent land uses that is convenient and pleasant for the pedestrian.
- a. The site layout should cluster buildings on the site to promote linked trips (such that a pedestrian need not cross more than 64 lineal feet of parking or driveway area, or one double loaded row of parking (not inclusive of sidewalks, pathways, landscaping, plazas, and other pedestrian facilities), whichever is less, between buildings;
 - b. The development should be designed to be well integrated with adjacent land uses. "Integrated" means that uses are within a comfortable walking distance (i.e., 1/8 mile) and are connected to each other with direct, convenient and attractive sidewalks and/or pathways;
 - c. The development should provide internal pedestrian connections that are direct, convenient and pleasant with appropriate amenities (e.g., attractive sidewalks and benches).
 - d. The development should incorporate the following criteria listed below.
 - (1) The building(s) have at least one primary entrance facing a street, or is directly accessed by a sidewalk or plaza within twenty (20) feet of the primary entrance.
 - (2) Main building entrances open directly to the outside.
 - (3) Every building has at least one entrance that does not require passage through a parking lot or garage to gain access.
 - (4) Corner buildings have corner entrances whenever possible
 - (5) Windows or window displays are provided along at least thirty (30) percent of the building's façade particularly in the commercial portion.
 - (6) Where street connections are not practicable, pedestrian connections may be made to and through the development in lieu of planned street connections. Pedestrian connections should equal what would be available if they were on the street (i.e., distinct from vehicle lane, shade by day and light by night, connects to a destination that attracts pedestrian activity, etc.).
 - (7) Pedestrian facilities connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.
 - (8) Sidewalks and/or plazas are provided with weather protection (e.g., awnings/canopies) and appropriate pedestrian amenities (e.g., street tree well cut-outs, outdoor seating, bus waiting areas, trash cans, mail boxes, sidewalk displays, public art, etc.).
- (4) Open Space and Public Spaces: The purpose of open space is to provide areas for passive and active social interaction. Areas which are accessible to the passing public are considered public spaces and are just as important to a development as those accessible only to the residents of the site. In addition, the open space areas should be surrounded by attractively designed building and landscaping elements as well as uses that effectively shape and energize the open space so as to create a focal point for activity. The quality of the open space area is considered to be of utmost importance.
- a. As a whole, open space should satisfy the following criteria:
 - (1) Provide areas for informal meetings and social interaction with other people; or, for quiet contemplation.
 - (2) Public spaces shall be accessible to residents.
 - (3) Provide a strong image and sense of place.
 - (4) Be a part of the pedestrian linkage throughout the development and adjacent land uses.
 - (5) Provide an overall theme and visual connection between spaces and uses within the development.
 - (6) Include areas of various shapes, sizes and configurations are included throughout the development.
 - (7) Be designed or located where a variety of micro-climates can be provided (i.e., shady areas on hot days, sunny areas on cold days, etc.) to assure the year-round use of outdoor open space areas. Provide areas which have awnings, wind breaks, sun shade and/or landscaping that would provide shelter from the elements.
 - (8) Create a pleasant pedestrian environment.

- b. Where applicable, criteria related to security and pedestrian-oriented design should be incorporated.
 - c. Open space may include, but is not limited to, outdoor areas like plazas, outdoor dining areas, rooftop gardens, and landscaped areas designed for active or passive use.
 - d. Active open space should be located or designed in such a manner that noise or activity does not unduly impact the residents of the mixed-use development or nearby residential developments.
 - e. Public spaces:
 - (7) The area should be clearly recognizable as "public" (e.g., a plaza within view of a street or other public space), publicly accessible (i.e., a pedestrian accessible), and can be occupied by a person (i.e., a person can stand or sit in the area).
 - (8) Encouraged to be located adjacent to the commercial component of the development that can be converted for joint use with outdoor dining and pedestrian access. However, when used in conjunction with an outdoor dining area, the area shall be designed in such a manner that pedestrian access is not being impeded or hindered.
 - (9) Where possible, larger public spaces should be located near the main pedestrian access to the development.
- (5) Landscaping. The purpose of landscaping is to enhance pedestrian and open space areas, to help delineate active areas from passive areas, to provide a screening buffer between pedestrians and vehicular circulation and adjacent developments. Landscaping should include the following elements:
- a. Be pedestrian oriented.
 - b. Designed in such a way to not create a security or physical hazard to pedestrians or motorists.
 - c. Enhance or complement the architectural design of the mixed-use development.
 - d. Provide visual interest year-round.
 - e. Utilize water conservation methods and drought tolerant planting where possible.
 - f. Should be provided between parking lots and all adjacent sidewalks.
- (6) Commercial: When positioning commercial uses, issues such as access and entrances, address, identity and visibility, security, marketability, and connections to other uses should be taken into account. Retail space should be located centrally and designed with adequate access from all internal uses. It should be located near major pedestrian access where the access passes through the retail area on the way to other destinations. Proximity to existing commercial uses located on adjacent parcels is important because it extends the commercial community to the development. Furthermore, the commercial area should include a street-front retail that promotes an active pedestrian area to draw the attention of the passing public into the development. In addition, to accommodate the needs of an ever-changing market, the commercial area should be designed to allow easy conversion from one commercial use to another. The commercial area of the mixed-use development shall include the following elements:
- a. Store-front windows that provide transparency to the building at the pedestrian level.
 - b. Visual interest which can draw the attention of the passing public.
 - c. A prominent location relative to the existing commercial uses located in the surrounding area in order to provide a continuity of the commercial presence in the community.
 - d. Orientation towards the street and major pedestrian or plaza areas.
 - e. Locate commercial uses relying heavily on passing foot traffic such as retail uses at ground level, with less active uses (i.e., office uses) located above ground level.

- f. Provide direct and prominent access to uses located above ground level is encouraged in order to highlight their location.
- g. A strong commercial presence along the site's street frontage where there is an identifiable commercial area adjacent to the development which needs to be preserved, encouraged and/or maintained.
- h. Built-in flexibility so as to allow conversion from one commercial use to another. Elements such as the following should be in place:
 - (1) Adequate ventilation and mechanical equipment to allow conversion to a variety of uses, such as a retail store or eating establishment.
 - (2) Fifteen (15) feet floor to ceiling heights on the ground floor.
 - (3) The depth of commercial tenant spaces should be predominantly fifty (50) feet.
- i. In addition, food and drink establishments are encouraged to be located near public open space areas to in order accommodate potential out-door dining areas for these uses.

(7) *Live/work units*^{1,3}: Occupancy and operation of a business in a live/work unit is outlined in Article 21.3 (Special Provisions Applying to Miscellaneous Uses) of this chapter. Since the live/work unit is a business location, its use may be similar to general commercial use. The needs of the resident occupying such a unit should also be a concern because the unit is part residential. Live/work units should incorporate the following criteria:

- a. Maintained indefinitely as live/work units.
- b. May be converted to an all commercial use, with the review and approval of the Zoning Administrator.
- c. May constitute all or part of the residential percentage of the mixed-use development. However, in no case shall a mixed-use development consist predominately of live/work units.
- d. Shall be located near the commercial portion of the mixed-use development.
- e. Live/work units shall not be located on a primarily existing commercial street frontage.
- f. Subject to the provisions in Article 21.3 (Special Provisions Applying to Miscellaneous Uses) of this chapter relating to live/work units.

(8) *Residential*: Residential uses may be located in a separate building or in mixed configurations with commercial uses in the same structure. Factors such as privacy, security, amenities, and views are very important. To provide adequate privacy and security, residential entrances can be placed in the quieter areas away from the main commercial portions. Access to open space areas, either public or private, is important. Likewise, interesting views of the adjacent neighborhood can be equally valuable.

- a. Residential uses may be located in a separate building or in mixed configuration with commercial in the same structure. When in a mixed configuration, residential uses should be located on the upper stories; or, on ground floors when they do not use storefront space. In no case shall residential uses be located on the ground floor of a building located on commercial street frontage.
- b. Access to the residential use should be clearly delineated.
- c. Units of various sizes (e.g., studios, one and two bedroom units) are encouraged.

(c) **Development Intensity.** The amount of development allowed in a mixed-use project is guided by the prevailing allowable floor area ratio (FAR) of the site's commercial zoning designation. FAR increases may be requested provided that the project can provide a higher quality of amenities such as with additional affordable housing units or

helping revitalizing the surrounding neighborhood. All projects shall contain sufficient commercial square footage to assure that the overall nature and intent of the commercial zoning of the mixed-use development is maintained.

(1) **Overall development intensity:**

- a. Shall be determined by the overall FAR assigned to the commercial district zoning designation of the development as follows:

<u>Zoning District</u>	<u>FAR</u>
C-O	0.60
C-N	0.60
C-T	0.60
C-C	1.25
C-B-D	1.25
C-B-D located near BART	2.00

- b. An increase of the allowable FAR listed in this subsection may be considered if the project will provide two out of four of the following elements. Requests for increases of the overall FAR shall be subject to the requirements outlined in Article 21.3 (Special Provisions Applying to Miscellaneous Uses) of this chapter relating to increases in Floor Area Ratio (FAR):
- (1) High quality open space and/or other on-site amenities; or,
 - (2) Providing increased benefit to the city (for example, such as additional affordable housing units over than that required for Inclusionary housing); or,
 - (3) High potential to revitalize adjacent parcels with the development of this mixed use project; or,
 - (4) Located within a quarter (1/4) mile to transit or off-site amenities (for example an array of commonly needed services used by residents, or public spaces such as parks).

(2) **Commercial:** The following criterion establishes the minimum depth of a typical commercial space as well as the overall amount of commercial floor area to be developed as part of the mixed-use development. The floor area may be allocated throughout the planned commercial area based on the needs of the development. Likewise, the depth of a commercial space may vary depending on the type of uses desired for the space. A shorter depth may be proposed where an accommodation must be made for features such as stairways and entrances near a commercial space.

- a. Depth of space: The minimum depth of commercial space shall be predominantly fifty (50) feet.
- b. Minimum combined total floor area: The minimum amount of commercial floor area shall be calculated based on the length of the commercial street frontage of the parcel multiplied by thirty (30). The project may provide commercial floor area exceeding the amount outlined in this subsection. However, the total combined square footage of the development must comply with the allowable FAR specified for the mixed-use development, unless an increase in the FAR is approved.

Example: A 2 acre parcel with an overall allowable FAR of . 0.60 has a commercial street frontage of 229 feet. Development as a totally commercial site would yield, 52,272 square feet of floor area. As a mixed-use development, the potential commercial area would be 30 times 229 (commercial street frontage) yielding 6,870 square feet of commercial floor space. The total commercial area is distributed along the commercial street frontage.

- c. Total Floor Area proposed by development: The total amount of commercial square footage may include the areas designated for the following uses. However, only the area specified for wholly commercial use (i.e., uses listed paragraph (1) and (2) of this subsection) shall count towards the minimum amount of required commercial square footage.
- (1) Commercial.
 - (2) Area designated for commercial use within the Live/work units.
- d. Design of the commercial area shall be governed by Design Criteria of this section.

(3) **Residential:** The number of dwelling units per unit of acre is controlled to match the carrying capacity of the land. Also, the number of residential units shall correspond to the availability of public services and the support of commercial area within the development and surrounding neighborhood.

- a. Maximum number of residential units: Maximum number of units shall be calculated based on one dwelling unit per one thousand (1,000) square feet of floor area remaining from the allowable FAR after deducting the amount used for the commercial component.

Example: A 2 acre parcel with an overall allowable FAR of 0.60 would result in a total overall floor area of 52,272 square feet. The commercial component of the site entails 6,870 square feet. This would leave a remainder of 45,402 square feet to be used for the residential component. Maximum number of units is determined by dividing 45,402 square feet by 1,000 square feet to yield 45.4 or 45 units.

(d) **Signs:** The purpose of signs is to provide orienting clues and establish project identity. Consistent signs for orientation, direction, and tenant identity placed throughout the development are encouraged. Signs should enhance the users' experiences, helping them find their way and providing them with a positive image of the development. Prominent tenant signage is critical to marketing the development and in attracting visitors.

- (1) Signage for the mixed-use development shall require a Planned Sign Program under Article 21 Sign Regulations.
- (2) Where appropriate, signage should be placed at entrances and other strategic locations to ensure that visitors understand the scope of the development and are not discouraged or confused.
- (3) Signage should provide separate messages for drivers versus pedestrians.

(e) **On-site Parking areas:** Whenever feasible, parking shall comply with the following criteria:.

- (1) Parking area shall be located where residents and businesses have easy access to parking. However, the parking area should not be located in such a manner that it dominates street frontage.
- (2) Joint use parking. Where parking demands peak during different times of the day, parking should be shared. Parking should be developed as joint use parking areas under the provisions outlined in Article 20 (Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts) of Chapter 2 Zoning.
- (3) Parking requirements shall be governed by the provisions set forth in Article 20 of this chapter except as modified by this section.
- (4) Parking and vehicle drives should be located away from building entrances and not between a building entrance and the street, except as may be allowed when a direct pedestrian connection is provided from the sidewalk to the building entrance.
- (5) Surface parking should be oriented behind or to the side of a building when possible.
- (6) Surface parking should not be located on commercial street frontage. However, if surface parking is proposed on street frontage, it must be screened from view.
- (7) Parking shall not be located on street corners.

(f) **Building criteria:** The building criteria serve several purposes including encouraging new development to reflect the general building scale and its placement within an existing neighborhood; fostering a desirable pedestrian-oriented environment; promoting a reasonable physical relationship between uses while promoting options for privacy for neighboring properties; and allowing for architectural diversity.

- (1) **General:** Building standards (i.e., height and setbacks) shall be governed by the requirements of the commercial district designated for the mixed-use development, unless otherwise modified by this article. The maximum building height shall conform to the requirements of the commercial district on which it is located when:

Exceptions: If the mixed-use development is located adjacent to residentially designated parcels and the maximum building height allowed for the commercial district exceeds that allowed for the adjacent residential district, the maximum building height shall be fifty-two (52) feet. For those areas of parcels within fifty (50) feet of any property with a general plan density designation of ten units per acre or less, the maximum building height shall be thirty (30) feet.

- (2) **Residential:** It is conceivable that the residential component of a mixed-use development may be located wholly within an existing commercial building or in an entirely new structure. And, it is recognized that development of an existing commercial site to a mixed-use development may necessitate the expansion of an existing commercial building. In keeping with the requirements for the existing commercial structure, the existing structure or its expansion shall be subject to the building standards of the commercial zoning designation for the mixed-use development. However, it should not be construed that use of an existing building or its expansion, exempts the development from the inclusion of amenities required for a typical residential use. In no case shall the use or expansion of an existing structure exempt the proposed development from fulfilling the open space requirements outlined in this section.

- a. Use of existing structures: When the residential component of the mixed-use development is contained wholly within an existing structure, it shall conform to the building design and setback standards set forth in the commercial district designated for the project site.
- b. Expansion of an existing structure: Expansion of an existing structure where the structure conforms to the building design and setback standards of the site's commercial district shall be governed by the requirements of that commercial district.
- c. New structures: Building standards shall be governed by the standards of the residential zoning most similar in nature and function to the proposed residential portion of the mixed-use development, except otherwise modified by this article.
- d. Open space: Open Space shall be required regardless if the residential use is located in an existing, expanded, or new structure.
 - (1) The amount of open space shall be governed by the standards of the residential zoning most similar in nature and function to the proposed residential portion of the mixed-use development. However, the amount may be reduced based on the anticipated needs of the future tenants and the quality, usefulness and/or amenities within the spaces provided.
 - (2) On-site open space may include, but is not limited to, pedestrian walkways, plaza areas, landscape areas, and other creative spaces which may be used either visually, actively, or passively by the residents within the development.
 - (3) Parks, plazas, public recreational facilities and other similar facilities located within one-quarter (1/4) mile may be counted towards the open space requirement for the mixed-use development.
 - (4) Open space design shall comply with the design criteria outlined in this section.

- (g) **Evaluation Criteria – Findings:** To assure the proposed development meets the intent of this section for mixed-use development, the following findings shall be made prior to approving a mixed-use project.

- 1) **Community integration:** The development integrates into the existing community and creates an appropriate internal and external human scale, providing for pedestrian comfort and amenities.
- 2) **Building and site layout:** The building and site layout is adaptable and would permit future changes in land use over time. Each use is designed and positioned to achieve its maximum potential so that they perform as a whole and benefit from one another. An efficiently functioning infrastructure (i.e., parking, services, utilities, and effective mechanical, electrical, and structural systems) is incorporated in the design of the development capable of servicing each component of the development's differing demands.

- 3) **Land uses:** The land uses provided by the development are compatible with one another and with the adjacent neighborhood. The commercial uses are those which would serve the residents of the development and the neighborhood. In addition, the project includes amenities and attractions that cannot be provided in single-purpose projects, such as interesting people-oriented spaces and a public realm that can capitalize on the synergy of diverse uses.
- 4) **Pedestrian-orientation:** The development is able to provide a safe and well-organized pedestrian access within the site and to relevant adjacent areas. All portions of the development are accessible by a direct, convenient, attractive, and comfortable system of pedestrian facilities.
- 5) **Open and Public Spaces:** The development provides usable public and private open space, and recognizes and responds appropriately to adjacent existing or planned public spaces (e.g., parks, civic buildings, transit stops, sidewalks, plazas, and similar spaces).
- 6) **Parking:** The development minimizes the amount of land developed as surface parking including implementing measures which reduce the overall the amount of parking needed for the development, such as but not limited to, joint-use parking and access to public transit. Parking areas have been located where they can be accessed safely and without difficulty from the street and within the development. In addition, the parking area is designed in such a way that it does not dominate street frontage nor interfere with pedestrian areas.

(h) **Reviewing authority:**

- (1) **Zoning Administrator.** A zoning administrator permit shall be required when any of the following conditions are present and involve uses which are expressly permitted for the district or which requires a Zoning Administrator permit. In the event that the proposed development is of such a magnitude or complexity, the Zoning Administrator may reserve the right to defer the review of the proposal to the Planning Commission or City Council.
 - a. A mixed-use development wholly located in existing structures with a maximum number of 10 units, regardless of over-all project size; or,
 - b. The overall project area is less than one-half (1/2) acre.
- (2) **Planning Commission.** A conditional use permit shall be required when any of the following conditions are present.
 - a. The mixed-use development includes a combination of existing and new structures with 11 units or more, regardless of the over-all project size; or,
 - b. The overall size project area of mixed-use development is between one-half (1/2) to four (4) acres in size; or,
 - c. Any of the before mentioned conditions in this subsection include uses which require conditional use permit approval as part of the development.
- (3) **City Council.** A planned district shall be required for a mixed-use development when any of the following conditions are present.
 - a. The mixed-use development is larger than four (4) acres in size; or,
 - b. Regardless of the over-all project size:
 - (1) The development involves all new structures; or,
 - (2) Additional uses other than those uses which are expressly permitted or conditionally permitted are being requested as part of the development; or,

- (3) Substantial modifications or deviations are being requested as part of the development.
- (4) Requests for increases over the threshold FAR.
- (5) Projects within the C-B-D.